

IN RE: PETITION FOR  
SPECIAL HEARING  
NWS WALTER AVE., 30'  
W C/L OF BELAIR RD.  
(4116 WALTER AVENUE)  
11TH ELECTION DISTRICT  
LESTER W. HORN, PETITIONER

AMENDED ORDER

Whereas the parties have discussed the requirement of an 8 foot fence contained on the previous Order passed by the Deputy Zoning Commissioner in this case, and

Whereas the parties have agreed that it would be better and more pragmatic for all concerned if the Horns were to retain ownership of the fence until the non-conforming use ceases;

Therefore, it is this 13th day of December, 1988.

ORDERED, that Restriction Number 2, contained in the Deputy Zoning Commissioner's Order dated November 10, 1988 be and is hereby amended as follows:

Line 17 and 18 of the Restriction that currently reads "The fence shall be the property of the McManns upon installation" shall be amended to read "The fence shall be the property

of the Horns so long as the non-conforming use shall remain, but shall become the property of the McManns should and when the non-conforming use ceases." The remainder of Restriction Number 2 and the Order dated November 10, 1988 shall remain the same.

ANN NASTAROWICZ  
DEPUTY ZONING COMMISSIONER

cc: Mr. & Mrs. Walter McMann  
9513 Dawnvale Road, Baltimore, Md. 21236

Douglas L. Burgess, Esquire  
Nolan, Plumbhoff & Williams  
1105 Hampton Plaza  
300 E. Joppa Road, Towson, Md. 21204

People's Counsel

File

7343A  
DLB:kap

IN RE: PETITION FOR  
SPECIAL HEARING  
NWS WALTER AVE., 30'  
W C/L OF BELAIR RD.  
(4116 WALTER AVENUE)  
11TH ELECTION DISTRICT

Lester W. Horn, Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requested a Special Hearing to confirm the nonconforming use of the subject property as a service garage, contractor's equipment storage facility and contractor's materials storage facility.

The Petitioner, Lester Horn, appeared along with his counsel, Douglas L. Burgess. Also appearing to testify in support of the petition was George Fox and Bob Langenfelder. Appearing as Protestants were Dorothy and Walter McMann, Genevieve Buettner, Katherine Hemming, Mary Wolinski, Charles and Ruth Hazel, and Lou Widner. Of the Protestants, the McManns were the only ones residing immediately adjacent to the site, the other Protestants being residents of the general Perry Hall area.

The Petitioner began with the testimony of George Fox. Mr. Fox indicated that he was 84 years old and retired. Mr. Fox said he was familiar with a man by the name of George

corroborated Mr. Fox's testimony. Lester Horn said he was 12 years old when his father built the garage at 4116 Walter Avenue in 1938.

Mr. Bob Langenfelder also testified for the Petitioners. He said he was the owner of Best Driveways. He said Best Driveways has operated continuously at 4116 Walter Avenue since 1972, the date when Best entered into a lease with Mr. Horn to use the premises for the paving business, including the storage of equipment, repair of equipment, and storage of materials. Mr. Langenfelder said that Mr. Horn and Mr. Horn's son worked for him and the business has remained family oriented. Mr. Langenfelder did admit the technology of the paving business has changed with the years, resulting in a shift from tar and chip method to bituminous blacktop paving.

After the above testimony, the Petitioner closed his case. The Protestants indicated they had no witnesses to rebut the testimony of Petitioner's witnesses, particularly Mr. Fox. The Deputy Commissioner ruled at this point that the Petitioner had presented a good prima facie case that there was a valid non-conforming use on the site.

The Deputy Zoning Commissioner then ordered a recess in the hearing, and the parties met to discuss a resolution of the case. After discussion, the Petitioner and the McManns, the immediate neighbor, reached an agreement about the placement of a fence to screen the site and other limitations

on the operation of the paving business on the site that are to be incorporated into this order.

Section 101 of the Baltimore County Zoning Regulations (B.C.Z.R.) describes a nonconforming use as a legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. Section 104 of the B.C.Z.R. states as follows:

A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these Regulations; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, or in case any nonconforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75%) percent of its replacement cost at the time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure and no nonconforming use of a building, structure, or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used. (B.C.Z.R., 1955; Bill No. 18, 1976)

The Maryland Court of Special Appeals in McKenny v. Baltimore County, Maryland, 31 Md. App 257, 385 A2d 96 (1978) has established that the following factors should be reviewed in determining the scope of an activity in a nonconforming use case:

(a) To what extent does the current use of these lots reflect the nature and purpose of the original nonconforming use;

(b) Is the current use merely a different manner of utilizing the original nonconforming use or does it constitute a use in character, nature, and kind;

(c) Does the current use have a substantially different effect upon the neighborhood;

(d) Is the current use a "drastic enlargement or extension" of the original nonconforming use."

After due consideration of the testimony and evidence presented, it is clear that a nonconforming use of the subject property as paving contractor's exists. The facts and evidence in the record tend to establish the nonconforming use of the subject property since prior to January 1, 1945.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 13th day of November, 1988 that the Petition for Special Hearing to approve the non-conforming use of the subject property as a paving contractor's equipment and material storage facility and service garage in accordance with Petitioner's Exhibit 1 be and is hereby GRANTED

Horn, the Petitioner's father. He first made acquaintance with Mr. George Horn in the 1920's when he was working in the company business for Mr. Fox's grandfather, Mr. DeGrusechy. Mr. Fox testified that when Mr. DeGrusechy closed his business down in 1938, Mr. George Horn bought the property at 4116 Walter Avenue and built a frame garage on the premises. From the garage, George Horn operated a blacksmith shop, auto and truck repair facility, and paving business. Mr. Horn operated the paving business from this location continuously since 1938 until his son Lester Horn bought the business in the 1950's. Lester Horn continued to operate the business continuously in the same place until Mr. Fox retired in 1975. Mr. Fox said he remembered the activities at 4116 Walter Avenue well because he was in the paving material supply business and the Horns were one of his biggest customers. He had many occasions to regularly visit the frame garage to collect bills or solicit orders and personally observed that a paving business and repair facility was being conducted continuously from the site from 1938 to 1975.

Next to testify was Mr. Horn himself, who identified the Petitioner's plat (Plaintiff's Exhibit #1) as well as a photo showing the old blacksmith shop in the 1940's (Plaintiff Exhibit 6). Mr. Horn also brought, as exhibits 3 and 4 for identification only, an old paving contractor's pouring can and kerosene light highway marker. Mr. Horn's testimony

from and after the date of this Order, subject, however, to the following restrictions:

1) The site may be used for a service garage only in conjunction with the repair of paving contractor's equipment owned by the operator of the business on the site. No vehicles or equipment other than those on Exhibit D are to be brought in and repaired thereon. All inoperable equipment must be made operable within fifteen (15) days, or stored in garage or removed from the site. No outside vehicles or equipment are to be brought onto the site for storage.

2) A 8 ft. high solid wooden fence will be erected by Petitioner along the McMann rear property line. The design of the fence will be substantially similar as shown on the attached Exhibit C. The exposed posts and beams as shown on Exhibit C will face Petitioner's property. A hedge will be planted to connect the existing hedge with the edge of the new fence. The fence and hedge to be in place 60 days from date of this order. Petitioner shall be responsible for maintenance of the fence and hedge as long as this non-conforming use shall continue. The fence shall become the property of the McManns upon installation. The McManns shall allow the Petitioner onto their property for purposes of erection and maintenance of the fence when needed. Entry by Petitioner onto McMann's property to erect/maintain fence will not be considered evidence of adverse possession. The McManns may cut grass or weeds on their side of the fence. The location of the hedge and fence is as shown on the attached plat marked Exhibit A.

3) The contractor's materials and equipment allowed to be stored or

ORDER RECEIVED FOR FILING  
Date  
By

repaired on site consists of Exhibit B (photo of stockpile of paving materials) and Exhibit D (list of equipment), any of which may be replaced on a one-for-one basis in the future with the same or equivalent materials or equipment. Equipment may be upgraded when it is replaced on a one-for-one basis with newer and better equipment that is consistent with the technology of the paving business at the time of replacement. No fill dirt is to be stored on site. there are no restrictions on what may be stored inside the garage.

4) The surface area of permitted non-conforming use is limited to the frame garage and parking area adjacent to frame garage as shown and indicated on the attached plat marked Exhibit A.

*Ann Nastarowicz*  
ANN NASTAROWICZ,  
DEPUTY ZONING COMMISSIONER FOR  
BALTIMORE COUNTY

6708A  
DLB:dip

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
494-3353

July 20, 1988

### NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Special Hearing  
CASE NUMBER: 89-67-54H  
NWS Walter Avenue, 30' W c/l of Belair Road  
(4116 Walter Avenue)  
11th Election District - 5th Councilmanic  
Petitioner(s): Lester W. Horn, et ux  
HEARING SCHEDULED: THURSDAY, SEPTEMBER 15, 1988 at 10:30 a.m.

Special Hearings Non-conforming use of 4116 Walter Avenue, to allow its continued and long standing use as a contractor's equipment storage facility, service garage, and storage area for stone and paving contractor's materials.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES  
Zoning Commissioner of  
Baltimore County  
cc: Lester W. Horn, et ux  
Douglas L. Burgess, Esq.  
Ms. Genevieve Buttner  
Ms. Dorothy McMan  
File

### PETITION FOR SPECIAL HEARING TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a non-conforming use of 4116 Walter Avenue, to allow its continued and long standing use as a contractor's equipment storage facility, service garage, and storage area for stone and paving contractor's materials. Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/We are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:  
(Type or Print Name)  
Signature  
Address  
City and State

Legal Owner(s):  
(Type or Print Name)  
Signature  
Address  
City and State

Attorney for Petitioner:  
(Type or Print Name)  
Signature  
Address  
City and State

4116 Walter Avenue  
Baltimore, MD 21236  
City and State

Suite 1105, 300 E. Joppa Road  
Towson, Maryland 21204-3012  
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted  
Douglas L. Burgess  
Suite 1105  
300 E. Joppa Road  
Towson, Maryland 21204-3012  
City and State

Attorney's Telephone No.: 823-7800

ORDERED BY The Zoning Commissioner of Baltimore County, this 29th day of July, 1988, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation through Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 15th day of September, 1988, at 10:30 o'clock a.m.

*J. Robert Haines*  
Zoning Commissioner of Baltimore County.

E.C.O.-No. 1  
ESTIMATED LENGTH OF HEARING - 1/2 HR.  
AVAILABLE FOR HEARING  
MON.-TUES. / WED. - NEXT TWO MONTHS  
ALL OTHER  
REVIEWED BY: *DLB* DATE

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
494-3353

Date: 9/9/88

J. Robert Haines  
Zoning Commissioner

Mr. & Mrs. Lester W. Horn  
4116 Walter Avenue  
Baltimore, Maryland 21236

Re: Petition for Special Hearing  
CASE NUMBER: 89-67-54H  
NWS Walter Avenue, 30' W c/l of Belair Road  
(4116 Walter Avenue)  
11th Election District - 5th Councilmanic  
Petitioner(s): Lester W. Horn, et ux  
HEARING SCHEDULED: THURSDAY, SEPTEMBER 15, 1988 at 10:30 a.m.

Dear Mr. & Mrs. Horn:

Please be advised that \$89.13 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before the hearing.

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE-REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT  
DATE 9/9/88 ACCOUNT 89-67-54H  
AMOUNT \$ 89.13  
RECEIVED FROM *Lester Horn*  
FOR *Advertising & Posting*  
VALIDATION OR SIGNATURE OF CARRIER  
8 642\*\*\*\*\*883378 9/9/88

GERHOLD, CROSS & ETZEL  
Registered Professional Land Surveyors  
412 DELAWARE AVENUE  
TOWSON, MARYLAND 21204  
823-4470

June 13, 1988

All that piece or parcel of land situate, lying and being in the Eleventh Election District of Baltimore County, State of Maryland and described as follows to wit:

Beginning for the same at the corner formed by the intersection of the north side of Walter Avenue with the west side of Belair Road, thence running and binding on the west side of Belair Road, North 11 degrees 33 minutes 40 seconds East 8.84 feet to the west side of a private Road and thence running and binding on said private Road, with the right and use in common with others, North 10 degrees 32 minutes 40 seconds East 462.79 feet, thence leaving said private Road and running thence South 29 degrees 49 minutes 40 seconds West 465.59 feet to the north side of Walter Avenue and thence running and binding on the north side of Walter Avenue, South 67 degrees 45 minutes 20 seconds East 152.37 feet to the place of beginning.

Containing 0.83 of an Acre more or less.

### CERTIFICATE OF PUBLICATION

TOWSON, MD. August 25, 1988  
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on August 22, 1988.

\$37.50  
THE JEFFERSONIAN.  
*S. Zele*  
Publisher

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J. ROBERT HAINES  
Zoning Commissioner of Baltimore County  
8272 Aug. 25

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
494-3353

July 20, 1988

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J. ROBERT HAINES  
Zoning Commissioner of Baltimore County  
cc: Lester W. Horn, et ux  
Douglas L. Burgess, Esq.  
Ms. Genevieve Buttner  
Ms. Dorothy McMan  
File

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
494-3353

July 20, 1988

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J. ROBERT HAINES  
Zoning Commissioner of Baltimore County  
cc: Lester W. Horn, et ux  
Douglas L. Burgess, Esq.  
Ms. Genevieve Buttner  
Ms. Dorothy McMan  
File

### BALTIMORE COUNTY, MARYLAND

#### INTER-OFFICE CORRESPONDENCE

TO: James Dyer  
Zoning Supervisor  
FROM: James Thompson  
Zoning Enforcement Coordinator  
Item No.: 457 (if known)  
SUBJECT: Petitioner: HORN (if known)

VIOLATION CASE # C-88-1441  
LOCATION OF VIOLATION 4116 WALTER AVE @ BELAIR ROAD  
DEFENDANT LESTER & RUTH HORN ADDRESS 4116 WALTER AVE BALTIMORE, MD 21236

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following persons:

NAME ADDRESS  
① Genevieve Buttner 4206 Penn Avenue  
V.P. of Perry Fall Imp. Assoc. Baltimore, Md. 21236  
② Dorothy McMan 9573 Dawnvale Road  
Baltimore, Md. 21236

After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Zoning Enforcement Coordinator, so that the appropriate action may be taken relative to the violation case.



VICINITY MAP  
1" = 2000'

PROPERTY OF  
LESTER W. HORN & WIFE  
DEED REF: LIBER 3289 & 416 486 (THIRD PARCEL)  
0.83 OF AN ACRE ±  
11<sup>th</sup> ELECTION DISTRICT, BALTIMORE COUNTY, MD.  
EXISTING ZONING DR 16 & DR 55  
PLAT TO ACCOMPANY SPECIAL  
HEARING FOR A NONCONFORMING USE  
CASE NO 89-67-SPH.

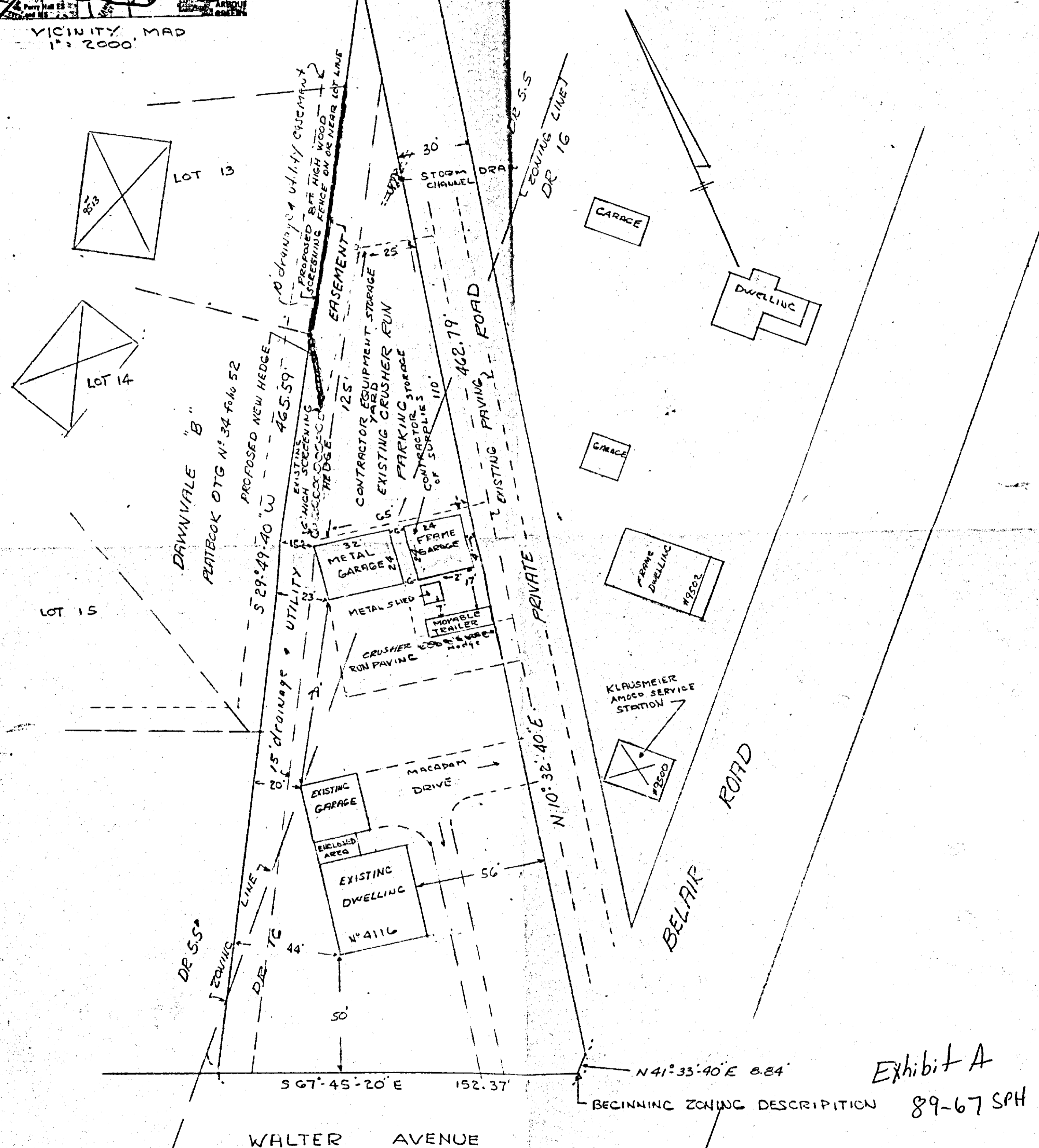


Exhibit A  
89-67 SPH

REVISED OCTOBER 4/88 TO SHOW NEW FENCE & HEDGE  
SCALE 1" = 30' JUNE 13 1988

GERHOLD, CROSS & ETZEL  
Registered Professional Land Surveyors  
412 Delaware Avenue  
TOWSON, MARYLAND 21204



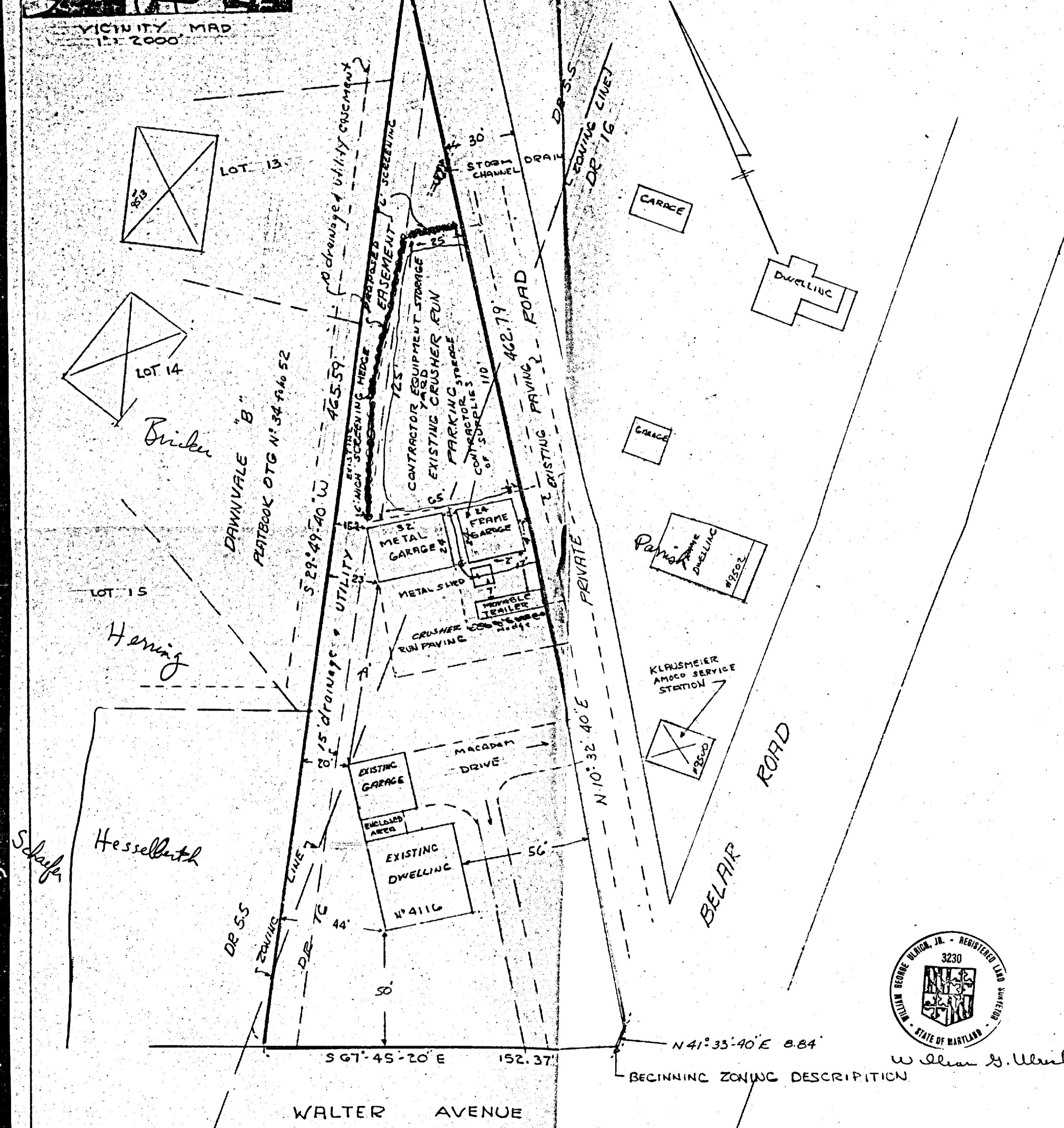
William S. Ulrich

ORDER RECEIVED FOR FILING



VICINITY MAP  
1" = 2000'

PROPERTY OF  
LESTER W. HORN & WIFE  
DEED REF: LIBER 3289 & 416 486 (THIRD PARCEL)  
0.83 OF AN ACRE ±  
11<sup>th</sup> ELECTION DISTRICT, BALTIMORE COUNTY, MD.  
EXISTING ZONING DR 16 & DR 55  
PLAT TO ACCOMPANY SPECIAL  
HEARING FOR A NONCONFORMING USE



PETITIONER'S  
EXHIBIT 8

SCALE 1" = 30' JUNE 13 1988

GERHOLD, CROSS & ETZEL  
Registered Professional Land Surveyors  
412 Delaware Avenue  
TOWSON, MARYLAND 21204



William S. Ulrich



BALTIMORE COUNTY  
OFFICE OF PLANNING AND ZONING  
PHOTOGRAPHIC MAP

PREPARED BY AIR PHOTOGRAPHICS, INC.  
MARTINSBURG, W.V. 25401

SCALE  
1" = 200' ±  
DATE  
OF  
PHOTOGRAPHY  
JANUARY  
1986

LOCATION  
PERRY HALL  
SHEET  
**PETITIONER'S**  
**EXHIBIT** N.E. 11

Received by: James E. Dyer  
Chairman, Zoning Plans  
Advisory Committee

Petition for Special Hearing  
for Non-Conforming use of  
4116 Walter Avenue  
11th Election District  
5th Councilmanic District

BEFORE THE  
ZONING COMMISSIONER  
OF  
BALTIMORE COUNTY

Petitioner: Lester W. Horn, et ux \* CASE NUMBER: 89-67-SPH

SUBPOENA TO PRODUCE RECORDS

TO: J. Carroll Mueller, Supervisor of Assessments  
State Department of Assessment and Taxation  
Baltimore County Office  
46 Old Court House  
400 Washington Avenue  
Towson, Maryland 21204

You are hereby commanded personally to appear before the  
Zoning Commissioner of Baltimore County, at Room 106 in the County  
Office Building, located at 111 West Chesapeake Avenue, in Towson,  
Maryland 21204, on Thursday, September 15, 1988 at 10:30 a.m., to  
produce the Assessor's Work Sheet of Lester and Ruth Horn of 4116  
Walter Avenue, Baltimore, Maryland 21236, Property Tax Number  
11 08 068 091 and 11 08 068 093, for the Protestant in the above  
entitled case, there and then pending before the Zoning Commissioner  
of Baltimore County, this Subpoena to remain in effect until you are  
granted leave to depart by the Zoning Commissioner, or by someone  
acting on his behalf.

Issued by the Hon. J. Robert Haines, Zoning Commissioner  
of Baltimore County, this 17th day of September, 1988.

*J. Robert Haines*  
J. Robert Haines  
Zoning Commissioner of Baltimore  
County

Mr. Sheriff/Private Process Server

Please process in accordance with  
Zoning Commission Rule IV (c)

RECEIVED  
SEP 18 1988

ZONING OFFICE

SUMMONED 9-8-88  
NOT SERVED 29  
REASON NOT SERVED  
SHERIFF  
OF BALTIMORE COUNTY  
J. EDWARD MALONE



OFFICE OF THE  
SHERIFF OF BALTIMORE COUNTY  
COUNTY COURTS BUILDING  
401 BOSLEY AVENUE  
TOWSON, MARYLAND 21204  
J. EDWARD MALONE  
SHERIFF

September 15, 1988

RECEIVED FROM WALTER AND DOROTHY McMANN, \$15.00, THIS DATE  
FOR SUBPOENA TO PRODUCE RECORDS.

*J. Edward Malone*  
SHERIFF OF BALTO. CO., MD.

CERTIFICATE OF POSTING  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District: 11th Date of Posting: 9/24/88  
Posted for: Special Hearing  
Petitioner: Lester W. Horn, et ux  
Location of property: 4116 Walter Ave., 20' w/ Balto. Rd.  
Location of Sign: 4116 Walter Ave., 20' w/ Balto. Rd.  
Remarks: P. David Fields, Jr. Petitioner  
Posted by: [Signature] Date of return: 9/2/88  
Number of Signs: 4

LAW OFFICES  
NOLAN, PLUMHOFF & WILLIAMS  
CHARTERED  
SUITE 1105, HAMPTON PLAZA  
300 EAST JOPPA ROAD  
TOWSON, MARYLAND 21204-3012  
(301) 823-7800  
TELEFAX (301) 296-2765

December 21, 1988

HAND-DELIVERY

The Honorable Ann Nastarowicz  
Deputy Zoning Commissioner  
County Office Building  
301 Chesapeake Avenue  
Towson, Maryland 21204

Re: Horn Zoning Matter

Dear Ms. Nastarowicz:

I wanted to report on my progress in obtaining a  
building permit for the 8 foot fence on the property line. As  
everyone may recall, a BOCA Code exception or waiver was  
required and I have been successful in obtaining the same from  
John Reisinger, Chief Building Engineer.

Mr. Reisinger has signed off on the permit. What  
remains to be done is have zoning sign off on the permit, but I  
would like the file to reflect the enclosed Amended Order,  
making the fence the Horn's until the non-conforming use shall  
cease, whence it shall become the property of the McManns.  
This will allow the fence permit to be obtained in the Horn's  
name as intended, since they will erect the same.

Once this is signed, please let me know, so the permit  
can be obtained. I have called the Horns and the McManns and  
they are agreeable to the Amended Order.

Warm wishes to all for a happy holiday season and a safe  
and happy new year!

Very truly yours,

*Douglas L. Burgess*  
Douglas L. Burgess

DLB:ksp

Enclosures

cc: Mr. Lester Horn  
Mrs. Dorothy McMann

RECEIVED  
DEC 21 1988  
ZONING OFFICE

LAW OFFICES  
NOLAN, PLUMHOFF & WILLIAMS  
CHARTERED  
SUITE 1105, HAMPTON PLAZA  
300 EAST JOPPA ROAD  
TOWSON, MARYLAND 21204-3012  
(301) 823-7800  
TELEFAX (301) 296-2765

December 6, 1988

HAND-DELIVERY

John Reisinger, P.E.  
Chief, Building Code Inspector  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

Re: Lester Horn  
Non-Conforming Use  
Case Number: 89-67-SPH

Dear Mr. Reisinger:

Pursuant to our conversation on Friday, December 2, this  
letter is to request a waiver of the BOCA Code requirements  
limiting fences on property lines to 6 feet in height.

As you can see from the attached Order of the Deputy  
Zoning Commissioner, Restriction Number 2 on Page 6 of the  
Order requires an 8 foot high wooden fence to be erected along  
the rear yard property line of Mr. Horn, which is also the rear  
yard property line of the protestants, Mr. and Mrs. McMann.

Mr. Horn is attempting to comply with the Order by  
erecting a fence as required and needs a building permit for  
the same. Mr. and Mrs. McMann consent to the building of this  
fence and this Petition for a waiver of the BOCA Code require-  
ments. It is imperative that the fence be located on the  
property line because moving it in the direction of Mr. Horn's  
property would place the fence in an easement, as noted on the  
site plan. No structures or buildings should be constructed in  
this easement area.

Enclosed you will find a copy of the Deputy Commissioner's  
Order, original application for permit and site plan showing  
the location of the fence as indicated by a brown line.

RECEIVED  
DEC 8 1988  
ZONING OFFICE

John Reisinger, P.E.  
December 6, 1988  
Page Two

If you have any questions, please feel free to call. I  
wish to thank you and your office for all of your help in this  
matter.

Very truly yours,

Douglas L. Burgess

DLB:ksp

Enclosures

cc: Ann Nastarowicz, Deputy Zoning Commissioner ✓  
Mr. and Mrs. Lester Horn  
Mr. and Mrs. Walter McMann

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines, Zoning Commissioner  
FROM: P. David Fields, Director  
Office of Planning and Zoning  
SUBJECT: Zoning Petitions: 89-58-Sph., 89-62-Sph.,  
89-67-Sph.

In view of the subject of these petitions, this office offers  
no comment.

*P. David Fields, Jr.*  
P. David Fields, Jr.  
Director  
Office of Planning and Zoning

PDF/jat  
cc: Shirley Hess, People's Counsel  
J. G. Hoswell  
Zoning File

RECEIVED  
JUL 29 1988  
ZONING OFFICE

CPS-008

LAW OFFICES  
NOLAN, PLUMHOFF & WILLIAMS  
CHARTERED  
SUITE 1105, HAMPTON PLAZA  
300 EAST JOPPA ROAD  
TOWSON, MARYLAND 21204-3012  
(301) 823-7800  
TELEFAX (301) 296-2765

RECEIVED ZONING OFFICE  
DATE: 10/14/88

October 14, 1988

VIA HAND DELIVERY

The Honorable Ann Nastarowicz  
Deputy Zoning Commissioner  
111 West Chesapeake Avenue  
Towson, Maryland 21204

Re: 89-67-SPH  
Lester W. Horn, Petitioner

Dear Commissioner Nastarowicz:

Enclosed kindly find a draft Order and Plat to accompany  
same. The photograph of the stone storage pile was a  
Protestant's exhibit and should be in the case file.

I am sending copies to Mrs. McMann, as well as Mr. Horn,  
for their comments, if any. I previously sent plats showing  
the fence/hedge location to both Mr. Horn and Mrs. McMann.

Thank you for your consideration.

Very truly yours,

*Douglas L. Burgess*  
Douglas L. Burgess

DLB:ksp

Enclosure

cc: Mr. Lester Horn  
Mrs. Doris McMann

Nolan, Plumhoff & Williams  
Attention: Mr. Douglas L. Burgess  
Suite 1105, Hampton Plaza  
300 East Joppla Road  
Towson, Maryland 21204-3012

Dear Mr. Burgess:

I have received your plat and the Findings of Fact and Conclusions  
of Law. I find it necessary to make some changes.

On page 3, last paragraph, 3rd line from bottom, it states, "other  
limitations on the operation of the paving business on the site that  
are to be incorporated into this order." I do believe there was to  
a list of equipment and material made and incorporated into this order.  
I do not find any in this document.

On page 5, number 1 restriction about the equipment was to read,  
"made operable within 30 days or stored in garage or removed from  
site. No outside vehicles to be brought in for storage on site."

On page 6, number 2 restriction, "A 8 foot high solid wooden fence  
will be erected by Petitioner along the McMann rear property line."  
I want "with design approval of the McManns" added. I do not want  
a handyman special or some homemade, unattractive fence. This will  
not be acceptable.

Number 2 restriction again, "Petitioner shall be responsible for main-  
tenance of the fence and hedge as long as this non-conforming use shall  
continue and the McManns shall allow the Petitioner onto their property  
for purposes of erection and maintenance of the fence when needed.  
This should read "Petitioner shall be responsible for maintenance of  
the fence and hedge in perpetuity and the McManns shall allow the  
Petitioner onto their property for purposes of erection and mainten-  
ance of the fence when needed with no squatters' rights in future years.  
McManns will have the right to keep grass and weeds cut and made neat  
and clean on their side of the fence."

Number 3 restriction is to include that no fill dirt from jobs is to  
be dumped on site.  
I await your reply on these additions.

Very truly yours,  
*Dorothy S. McMann*  
Dorothy S. McMann

cc: Honorable Ann Nastarowicz

9513 Dawnvale Road  
Baltimore, Maryland 21236  
October 17, 1988

*Lester Horn*  
Use # 89-67-SPH  
RECEIVED  
OCT 18 1988  
ZONING OFFICE

ZONING ENFORCEMENT SECTION TELEPHONE: 494-3351

CORRECTION NOTICE FOR ALLEGED ZONING VIOLATION

CASE NUMBER C-88-1441 ELECTION DISTRICT: 1441

LOCATION: 9500-9502 BELAIR ROAD

BUILT-RITE KITCHENS, INC./BEST DRIVEWAYS, INC.

PLEASE BE ADVISED THAT AN INSPECTION OF THE ABOVE REFERENCED LOCATION REVEALED:

☐ THERE WAS NO VIOLATION OBSERVED AND THE CASE WILL BE CLOSED.

☒ THERE IS AN APPARENT VIOLATION AND THE FOLLOWING CORRECTION IS REQUIRED:

REMOVE ALL COMMERCIAL VEHICLES FROM THIS RESIDENTIALLY ZONED LOCATION

REMOVE ALL CONTRACTOR'S EQUIPMENT FROM THIS SAME LOCATION

REMOVE ALL INOPERATIVE OR UNLICENSED MOTOR VEHICLES FROM THIS LOCATION

REMOVE ALL BUILDING MATERIALS AND SUPPLIES FROM THIS LOCATION

FAILURE TO COMPLY BY MARCH 25, 1988, WILL RESULT IN THE ISSUANCE OF A CITATION WHEREIN YOU ARE SUBJECT TO A CIVIL PENALTY OF \$200.00 FOR EACH VIOLATION, AND EACH DAY SHALL BE CONSIDERED A SEPARATE VIOLATION (CIVIL PENALTY BILL #132-85).

☐ COMPLIANCE HAS BEEN ATTAINED AND THE CASE WILL BE CLOSED.

INSPECTOR: PERLOW DATE: 2/25/88

COPIES: WHITE - Defendant Original PINK - File  
GREEN - Defendant Duplicate GOLD - Inspection Report  
YELLOW - Complainant

CC: WALTER KLAUSMEIR & LESTER HORN  
DOROTHEA KLAUSMEIR & RUTH HORN

PETITIONER'S EXHIBIT 12

Sept. 14, 1988

Today Lester Horn visited me and explained the zoning situation in which he is involved.

Mr. Horn has been a friendly neighbor and I have no objection for him to continue in the asphalt business.

Dorothy Turing  
9509 Dawson Rd

PETITIONER'S EXHIBIT 10A

September 7, 1988

Mr. Lester Horn  
4116 Walter Avenue  
Baltimore, Maryland 21236

Dear Lester:

Thank you for visiting with us the other day to explain your property's zoning situation. We understand you are having a hearing to confirm your property's use as grandfathered in by many years of existing use.

We have no objection to your property's continued use as existing. You have been a good neighbor over the years. Thank you for visiting with us and talking about the situation.

Very truly yours,

Name: Mary Hesselbath Address: 4116 Walter Ave. Baltimore, Md 21236

Name: Jaye E. Buehler Address: 9511 Dawson Rd Baltimore, Md 21236

Name: John T. Hirsch Address: 9502 Belair Rd Baltimore, Md 21236

Name: William J. Hoffman Address: 2111 Walter Ave Baltimore, Md 21236

PETITIONER'S EXHIBIT 10B

May 13, 1935

To whom it may concern:

This is to certify that I, George D. Fox, former president of the George D. Fox Co., have known Lester Horn's father George W. Horn over 75 years. He was the village blacksmith in Ferry Hall and he worked for my grandfather David DeGrunchy. The shop was located at Belair Rd. and Horn Ave. in Ferry Hall, Baltimore county, Maryland.

Blacksmithing is a trade involving metal work, wood work, wagon-truck body building, horse shoeing, wheel wright, automotive repair, etc... In conjunction with the foregoing he was involved in the asphalt business.

After my grandfather's death in March 1939, George Horn built his own shop at 4116 Walter Ave. and carried on the business.

His son Lester worked with him from youth up and expanded the business in the asphalt field. I was one of his suppliers of road building materials for many years at the Walter Ave. location.

Sincerely,  
George D. Fox

PETITIONER'S EXHIBIT 2

BUILDING PERMIT

Permission is hereby granted to

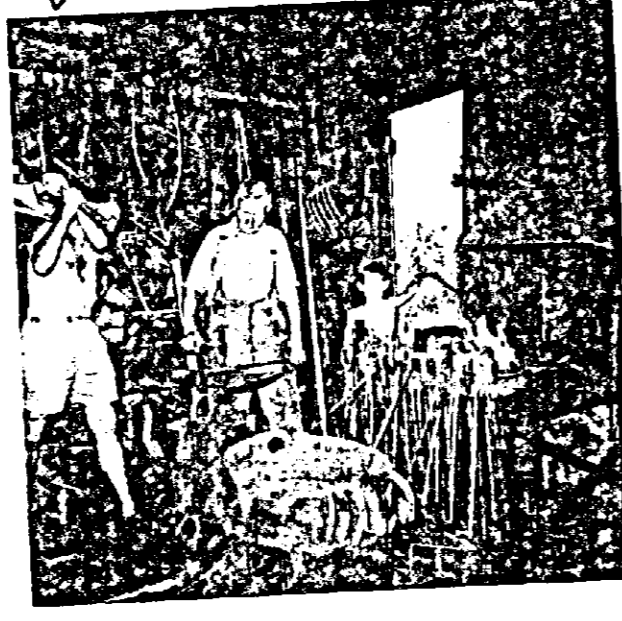
Office of Inspector of Buildings  
District of Baltimore County, Maryland

By order  
June 17, 1939

Issued by authority of Chapter 481, Act of 1918.

PETITIONER'S EXHIBIT 5

LESTER HORN (PETITIONER)  
GEORGE HORN (LESTER'S FATHER)

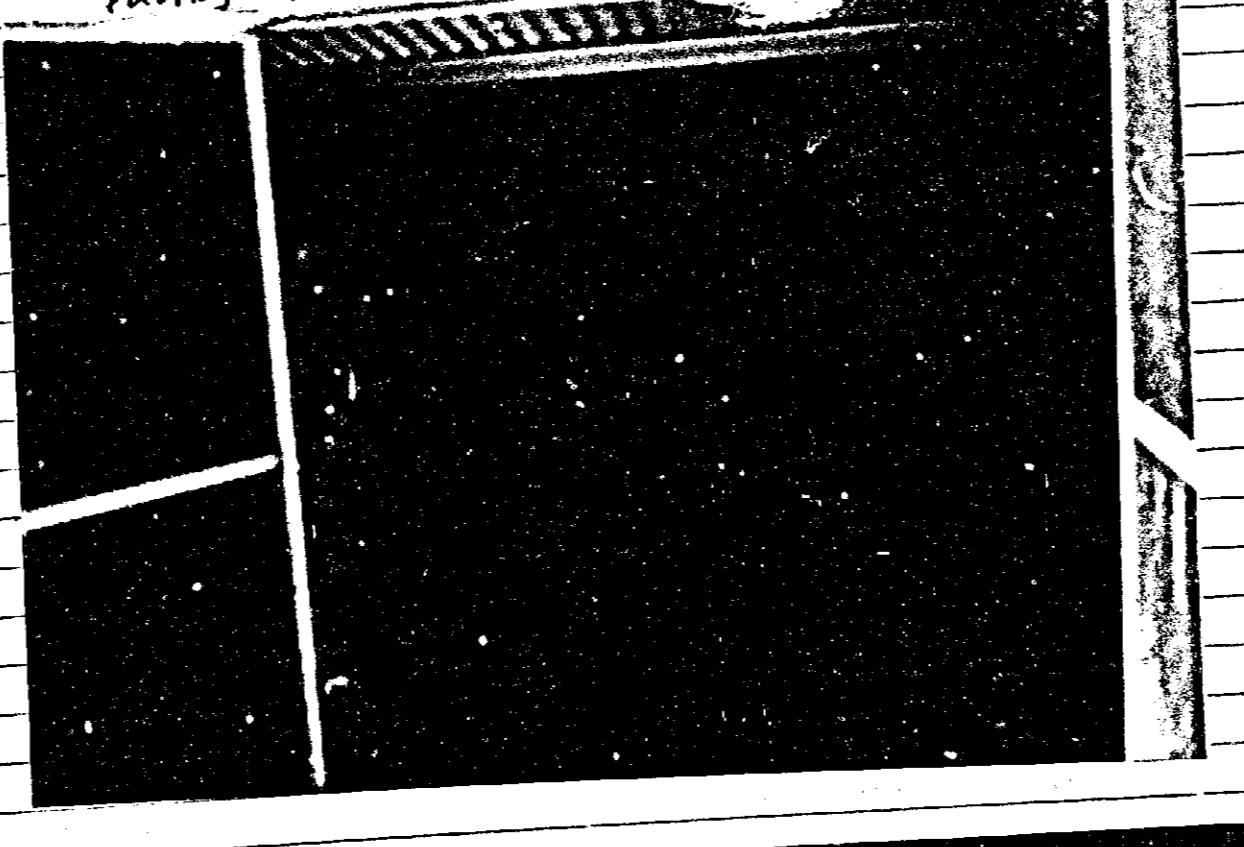


OLD BLACKSMITH SHOP AND SERVICE GARAGE AT WORK

PETITIONER'S EXHIBIT 6


PETITIONER'S EXHIBIT 7

Interior of Metal Shop Showing Antiques  
Paving Machine - Rot Metal Wheels



Horn 89-67 SPH

Exhibit B



ORDER RECEIVED FOR FILING



Best Driveway's, Inc.

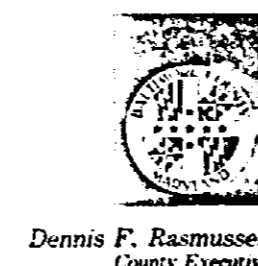
1974 International Loadstar 70  
 1935 " Dump truck  
 1937 " " "  
 1987 Isuzu 4 Dr. Trooper  
 (2) Trailers  
 1934 Ford Continental  
 1933 " 1/2 TON Pick-up  
 (1) Layton Paver  
 (1) A/C Mobil Grader  
 (1) Goodroads Chipper Box  
 1930 Sealcoat Machine  
 1970 Asphalt Kettle  
 (2) Front End Loaders  
 (1) Power Box Asphalt Paver  
 (3) Rollers

ORDER RECEIVED FOR FILING  
 Date \_\_\_\_\_  
 By \_\_\_\_\_

Exhibit D

Baltimore County  
 Zoning Commissioner  
 Office of Planning & Zoning  
 Towson, Maryland 21204  
 XXXXXX 887-3353  
 J. Robert Haines  
 Zoning Commissioner

November 10, 1988



Douglas L. Burgess, Esquire  
 Nolan, Plumbhoff & Williams  
 1105 Hampton Plaza  
 300 E. Joppa Road  
 Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING  
 NW/8 Walter Avenue, 30' W of the c/l of Belair Road  
 (4116 Walter Avenue)  
 11th Election District - 5th Councilmanic District  
 Lester W. Horn, et ux - Petitioners  
 Case No. 89-67-SPH

Dear Mr. Burgess:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

Very truly yours,

*Ann M. Nastarowicz*  
 ANN M. NASTAROWICZ  
 Deputy Zoning Commissioner  
 for Baltimore County

AWN:bjs

cc: Mr. & Mrs. Walter C. McMann  
 9513 Dawnvale Road  
 Baltimore, Md. 21236

Mr. & Mrs. Charles B. Hasel  
 4401 Vale Drive  
 Baltimore, Md. 21236

Ms. Laura G. Buettner  
 4206 Penn Avenue  
 Baltimore Md. 21236

People's Counsel; File

Mr. Louis F. Waldner  
 4139 Whittlesey Avenue  
 Baltimore, Md. 21236

Ms. Katherine Hemming  
 9900 Fox Hill Road  
 Perry Hall, Md. 21128

Ms. Mary Walinski  
 9901 Fox Hill Road  
 Perry Hall, Md. 21128

PETITIONER(S) EXHIBIT (9A-D)

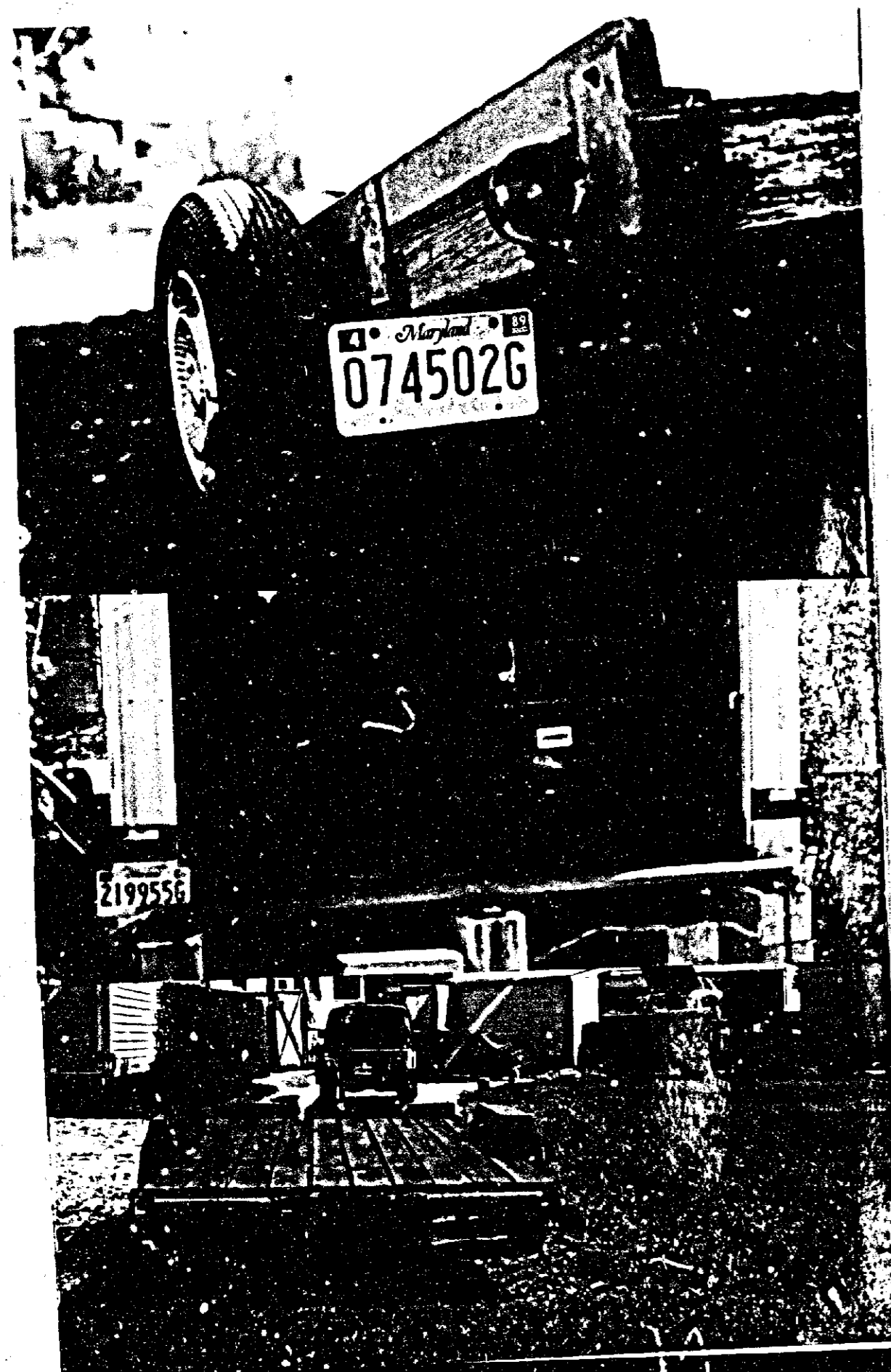
Storage of Contractor's Equipment and Materials at Rear of Site



Interior of Old Frame Garage - Built 1939



All vehicles/trailers on site are licensed/operable



9c  
 Neighbors' view of Horn property showing hedging/screening



View of rear of Horn site showing hedging/screening

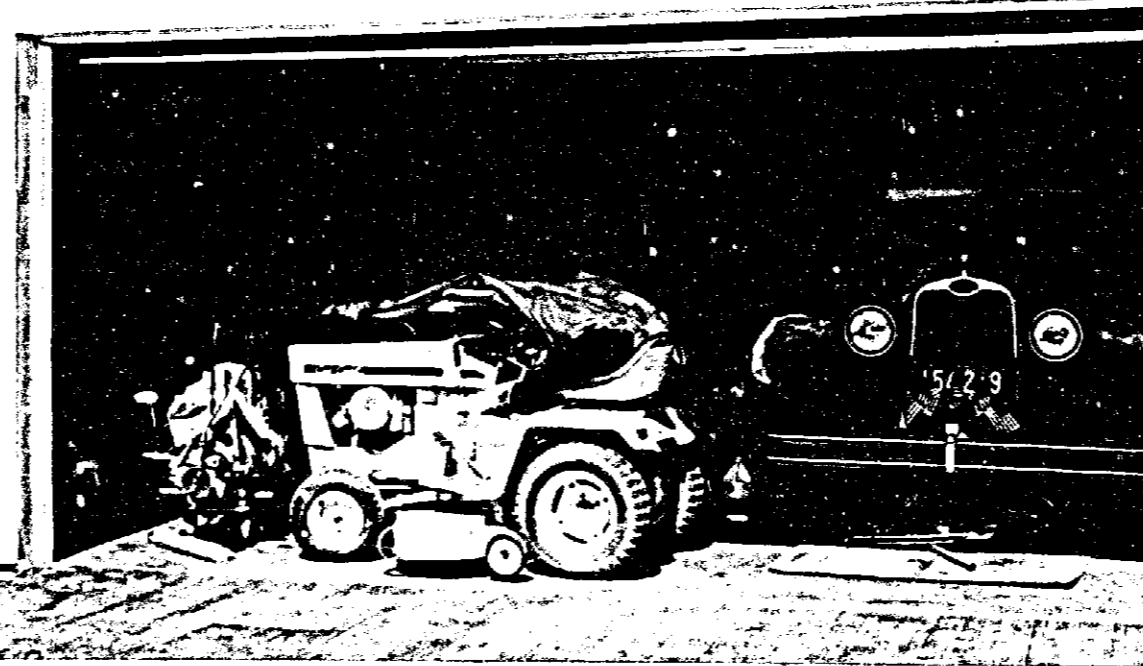


9c

Exterior of Metal Garage - Used for Hobby - Antique Cars



Interior of Metal Garage Showing Antique Cars



9d

STATE DEPARTMENT OF ASSESSMENTS AND TAXATION  
 CORPORATE ASSESSMENT DIVISION  
 501 West Preston Street  
 Baltimore, Maryland 21201  
 (301) 225-1170

1987  
 Return Due Date  
 April 15, 1987  
 Date Received  
 by Department

PERSONAL PROPERTY RETURN AS OF JANUARY 1, 1987  
 FOR

Domestic Stock Corporations—\$40 Filing Fee Required  
 OR  
 Domestic Non-Stock Corporations—No Filing Fee Required

Name of Corporation Best Driveway's, Inc.  
 Address 17 Fullerton Heights Ave. 71660172  
Baltimore, Md. Zip Code 21136

Corporate I.D. # D0454348

SECTION I  
 A. Date of Incorporation 8/17/73 B. Nature of business conducted Driving Contractors  
SPH

C. Does the charter of the corporation authorize the issuance of capital stock? Yes If yes, include \$40 Filing Fee.  
 D. Does the corporation do any part of its business in the State of Maryland? Yes

E. If answer is Yes to question D above, complete this section:  
 IMPORTANT: Show exact location of all personal property owned and used in the State of Maryland, including county, city, town, and street address. This assures proper distribution of assessments. If property is located in two or more jurisdictions, obtain Form No. 3 from the Department. (P.O. Boxes are not acceptable).  
17 Fullerton Heights Ave. Baltimore  
 (Address, number and street) (County)

Is the property located inside the limits of an incorporated town? Yes (Yes or No) (Incorporated town)

F. Names and addresses of officers:

Names	Addresses
President <u>Robert G. Langenfelder</u>	<u>17 Fullerton Heights Ave. 21136</u>
Vice-President	
Secretary <u>Marcie Langenfelder</u>	<u>17 Fullerton Heights Ave. 21136</u>
Treasurer <u>Marcie Langenfelder</u>	

G. Names of directors:

Names	Addresses
<u>Robert G. Langenfelder</u>	
<u>Marcie Langenfelder</u>	

PAGE 1

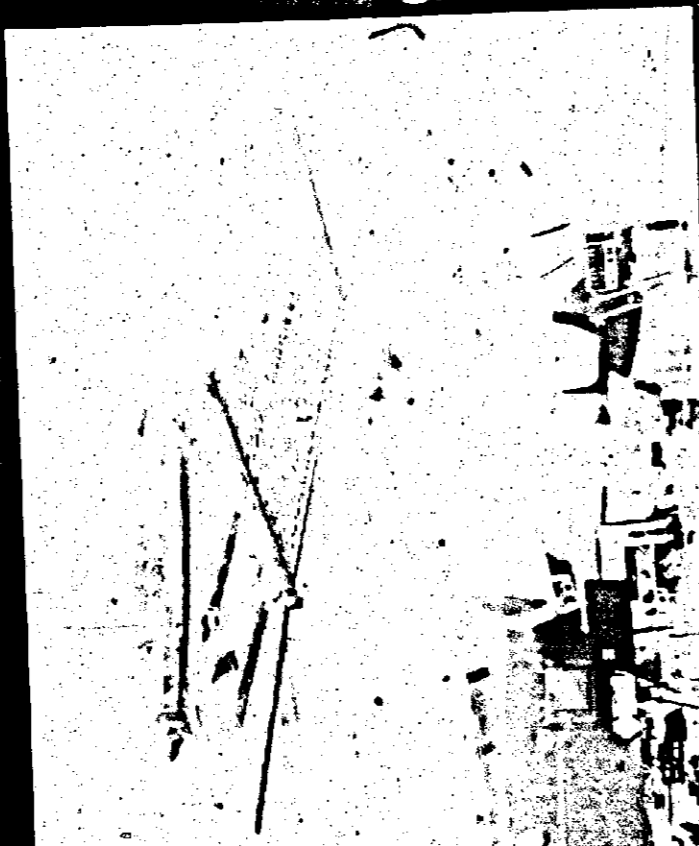
PROTESTANT'S EXHIBIT 2

PROTESTANT(S) EXHIBIT (1)



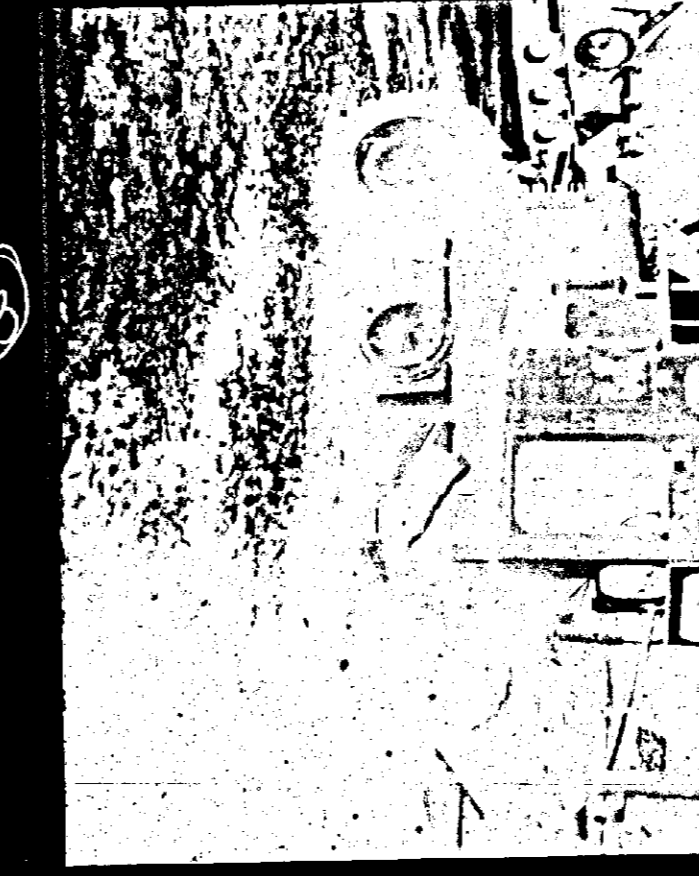
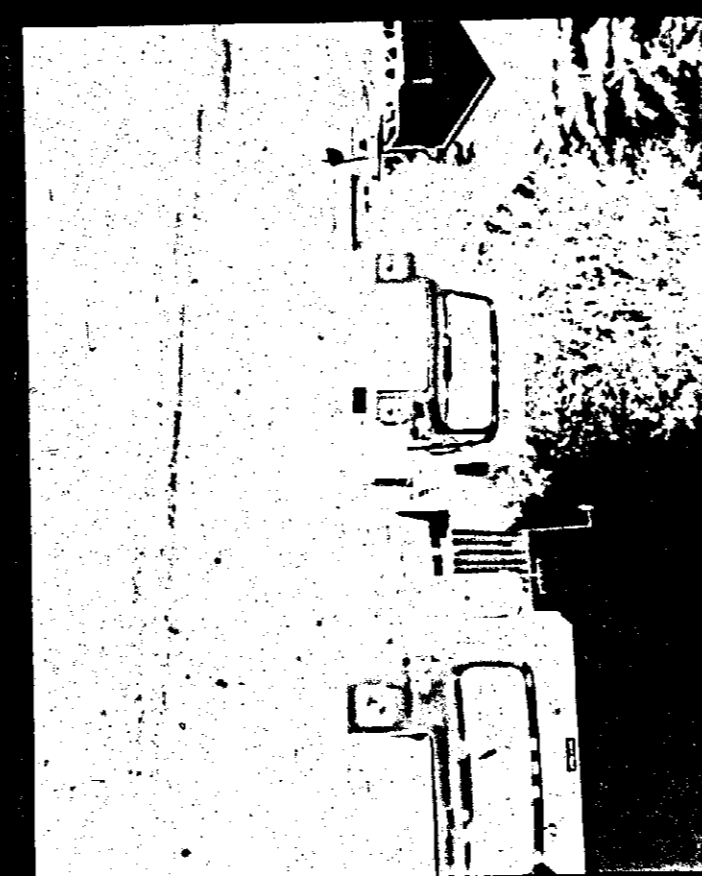
PROTESTANT'S  
EXHIBIT 1

DEBRIS THAT SAT UNTIL  
CITATION WAS SENT



PROTESTANT'S EXHIBITS 3A-3F

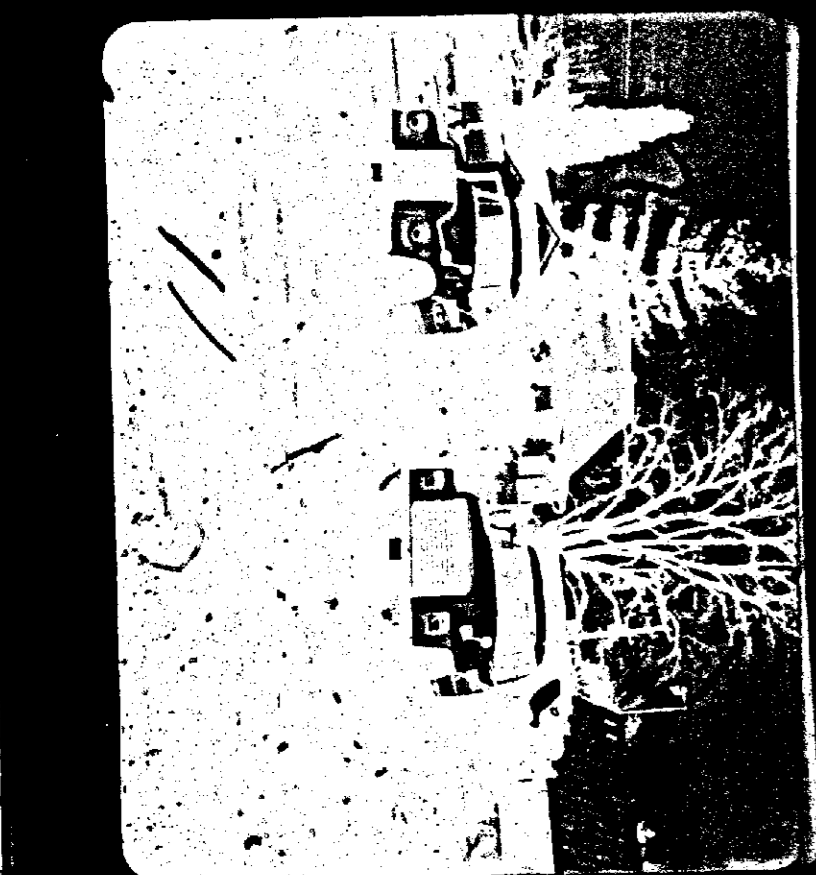
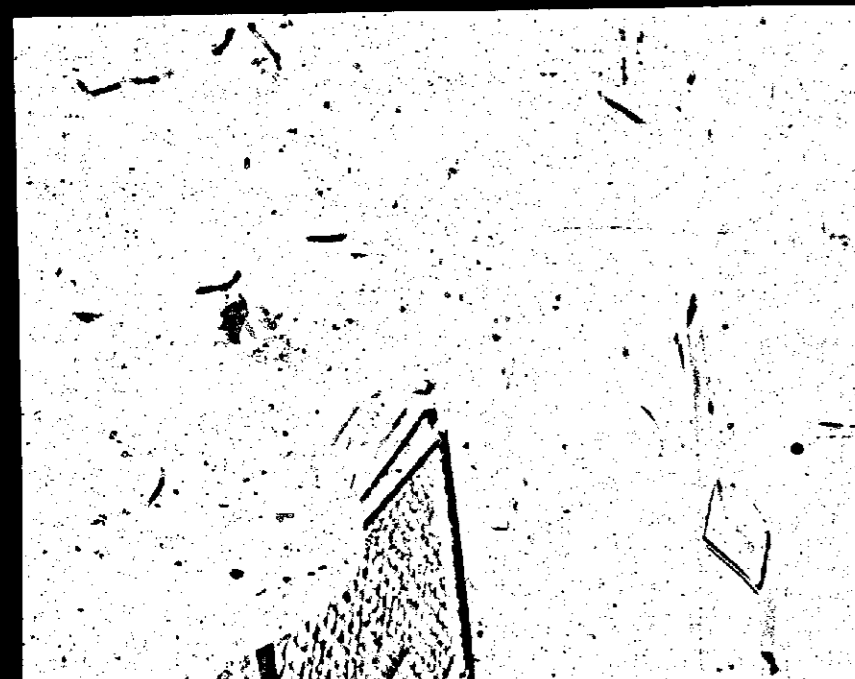
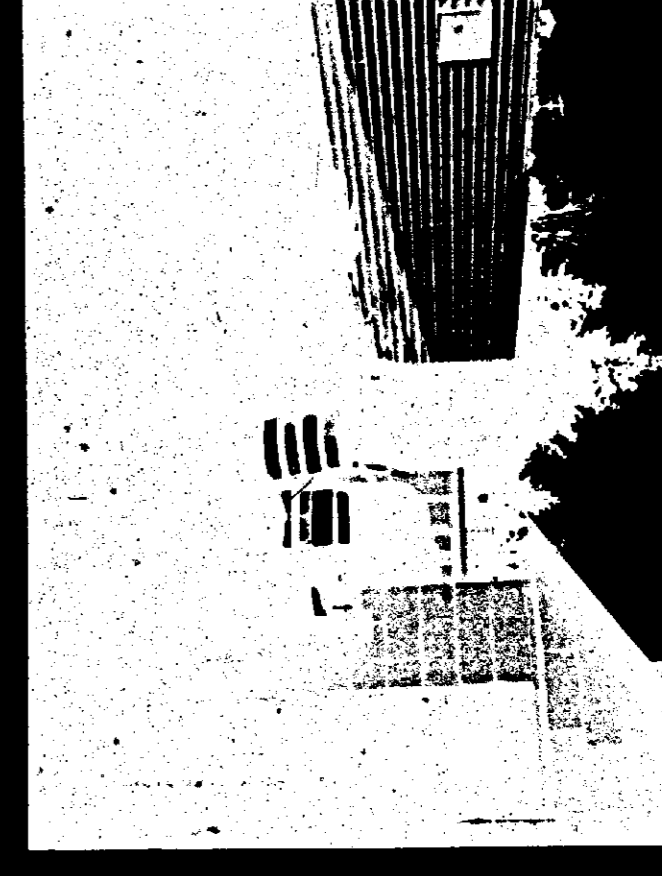
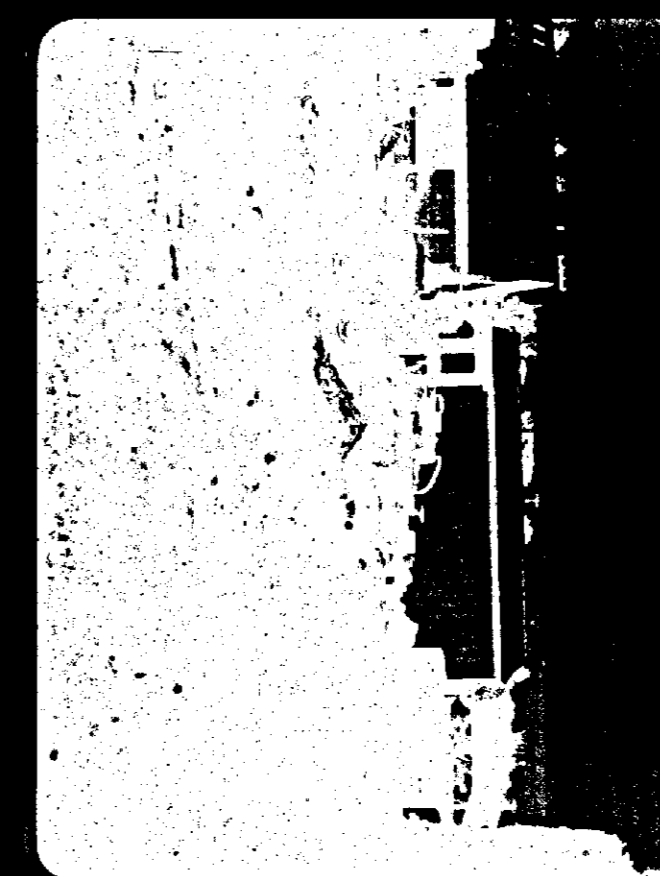
3A



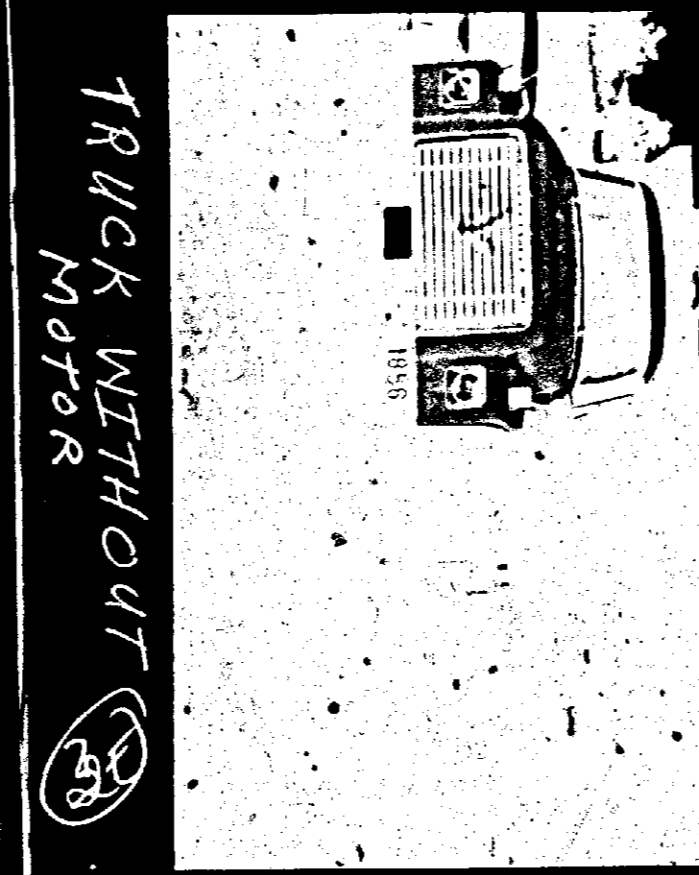
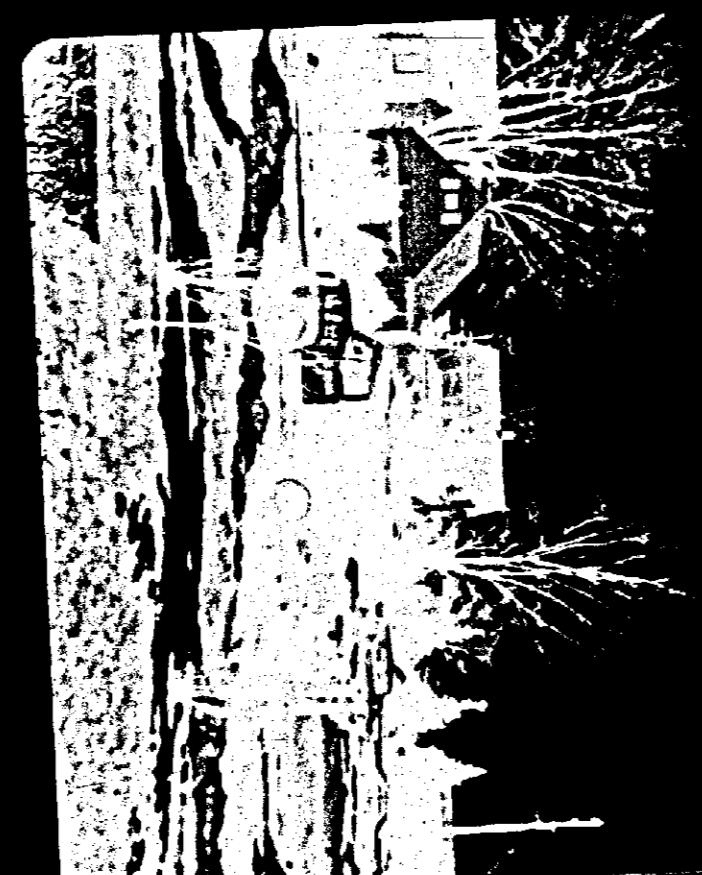
3B

SHED?  
PAVING OFFICE?

3C

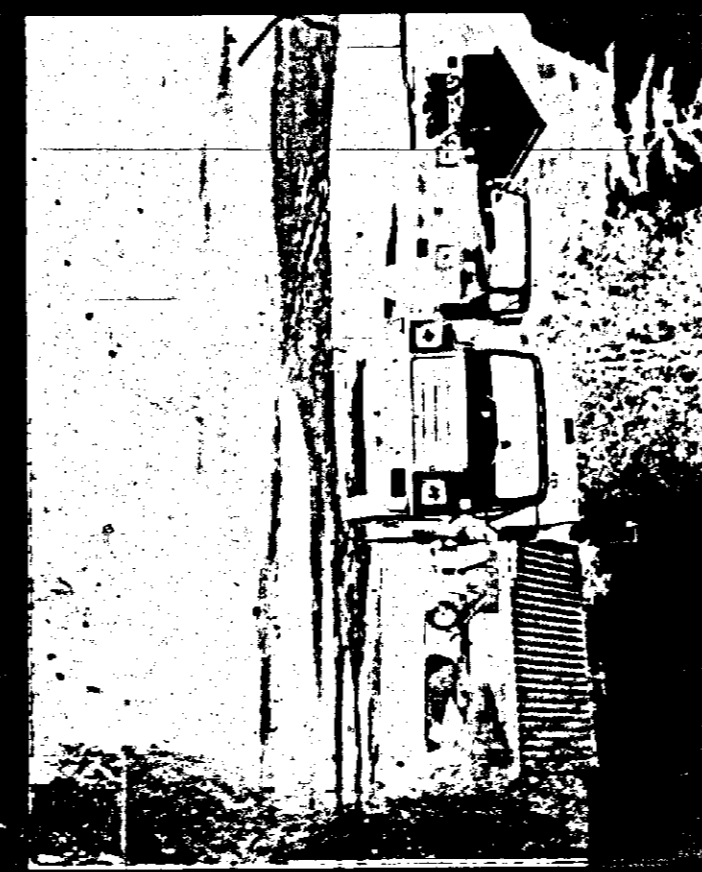


3D



TRUCK WITHOUT  
MOTOR

3E



3F



PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

DOUGLAS BURGESS

300 E. TOPPA RD 21204  
ATTY. FOR PETITIONER

LESTER HOEN

4116 WALTER AVE. Pim Hl 21234  
Petitioner

GEORGE FOX

1202 Halvern Ave. Reston 21204

Bob Langensfelder

17 Fullerton Heights  
Fullerton, Md. 21236

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME

ADDRESS

Dorothy S. Mc Mann

9513 DOWNVALE RD 21234

Mrs. Mary L. Baker & Haul

4401 Yale Dr. 21236

Laura H. Buettner

4206 Penn Ave - 21236

Lynn D. Whitham

4139 Whittling Ave - 21236

Walter C. Moore

4513 Penn Ave - 21236

Kathleen H. Hume

2700 Fox Hill Rd 21236

Shirley Stalinski

9901 Fox Hill Rd Reston

PRESS: Katherine DeWitt  
please call 337-2448